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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CV-S-06-0082-JCM (PAL)

Scott et al.,

Plaintiff,

v.

Related CCD, LLC et al.,

Defendant.

ORDER

Presently before the court is plaintiffs' *ex parte* motion to continue hearing (#121) filed on March 1, 2007. A hearing is currently scheduled for Wednesday, March 7, 2007, on plaintiffs' motion for class certification (#88). Plaintiffs requests a continuance of this hearing for at least sixty (60) days so the court can first address their motion to amend or correct complaint (#119).

"The decision to grant or deny a continuance is in the sound discretion of the trial court." *Citicorp Real Estate, Inc. v. Smith*, 155 F.3d 1097, 1102 (9th Cir. 1998). A decision in granting or denying a continuance is a fact-specific inquiry that should be done on a case-by-case basis. *See Ungar v. Sarafite*, 376 U.S. 575, 589 (1964). The decision on a continuance by a district judge will only be overturned if it is found to be an abuse of discretion that results in an "arbitrary or unreasonable" decision. *United States v. Flynt*, 756 F.2d 1352, 1358 (9th Cir. 1985).

After the plaintiffs filed their reply in support of their motion for class certification (#107),

1 defendants filed an answer and counterclaim (#115) against two class representatives, Carol Scott
2 and Fiona McCullough, for slander of title arising out of the filing of a *lis pendens*. The defendants
3 argue the merits of their counterclaim as grounds for denying class certification. In the interest of
4 judicial economy, the court finds it is appropriate to address plaintiffs' motion to amend or correct
5 complaint (#119) before hearing arguments on the motion for class certification (#88).

6 Upon review of plaintiffs' *ex parte* motion to continue hearing (#121), the record as a whole,
7 and for other good cause shown,

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9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion to
10 continue hearing (#121) be, and the same hereby is, GRANTED.

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12 IT IS FURTHER ORDERED that the hearing on plaintiffs' motion for class certification
13 (#88) presently set for Wednesday, March 7, 2007, be VACATED. Hearing of plaintiffs' motion
14 for class certification will be held on Monday, May 7, 2007, at 10:30 a.m. in Courtroom 6A at the
15 Lloyd D. George United States Federal Courthouse, 333 Las Vegas Boulevard South, Las Vegas,
16 Nevada 89101.

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18 IT IS FURTHER ORDERED that the hearing on plaintiffs' motion to amend or correct
19 complaint (#119) will be held on Thursday, March 22, 2007, at 10:00 a.m. in Courtroom 6A at the
20 Lloyd D. George United States Federal Courthouse, 333 Las Vegas, Boulevard South, Las Vegas,
21 Nevada 89101. The court will order an abbreviated schedule for the parties to submit supplemental
22 briefs on the plaintiffs' motion for class certification (#88) at the conclusion of this hearing.

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24 IT IS FURTHER ORDERED that defendants shall have until Wednesday, March 14, 2007,
25 to file its opposition to plaintiffs' motion to amend or correct complaint (#119).

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27 IT IS FURTHER ORDERED that plaintiffs shall have until Monday, March 19, 2007, to file
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1 their reply in support of their motion to amend or correct complaint (#119).

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3 DATED this 5th day of March, 2006.

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UNITED STATES DISTRICT JUDGE
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